PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number 042933/274313
(filed with the Notice of Appeal)	

Application Number 09/745,289	Filed December 20, 2000

First Named Inventor Richard D. Romero

Art Unit 2157	Examiner Burgess, Barbara N.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
    Note: No more than five (5) pages may be provided.

Respectfully submitted,

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Date _____ November 14, 2008 _____

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Attachment

Reasons for Requesting Pre-Appeal Brief Request for Review

Claims 1, 5-14, 16-18 and 20-53 stand rejected under 35 U.S.C. §102(e) as being anticipated by Tuli (U.S. Patent No. 7,289,244, hereinafter "Tuli '244"). Claim 2 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Tuli '244 in view of Borger et al. (U.S. Patent Application Publication No. 2002/0123334, hereinafter "Borger"). However, Applicants respectfully request reversal of the rejections above for the reasons provided below.

I. Many of the relied upon portions of Tuli '244 are not prior art.

As an initial matter, Applicants respectfully note that the filing date of Tuli '244 is June 14, 2001, which is after the filing date of the present application (December 20, 2000). However, Tuli '244 claims priority as a continuation-in-part from U.S. Patent No. 7,068,381, which was filed on February 20, 2000. Thus, Tuli '244 is only prior art with respect to the present application for the subject matter that was first disclosed by U.S. Patent No. 7,068,381 and not subject matter first added in Tuli '244.

Applicants respectfully submit that much of the subject matter cited in the Office Action from Tuli '244 is not supported in U.S. Patent No. 7,068,381 and is therefore not prior art for the present application. In particular, although the final Office Action cites numerous portions of Tuli '244 in connection with rejecting the independent and dependent claims, many of the listed citations for each claimed feature are either fully unsupported by U.S. Patent No. 7,068,381 or only partially supported by U.S. Patent No. 7,068,381. For example, in relation to the rejection of claim 5, which recites that the "assembling conforms to an algorithm that tends to favor assembling each of the subdocuments from segments that have common parents in the hierarchy", the Office Action cites col. 6, lines 41-61 of Tuli '244 as disclosing this feature. However, there is no disclosure anywhere in U.S. Patent No. 7,068,381 that remotely supports the disclosure of col. 6, lines 41-61 of Tuli '244. Thus, at least with respect to claim 5, Tuli '244 is clearly not prior art relative to the claimed invention. This is merely one very clear example of the failure of U.S. Patent No. 7,068,381 to support Tuli '244 and numerous other claims, including the independent claims, include other examples, some of which may be arguable, but others of which are not. Moreover, given the clear and substantial differences between Tuli '244

and U.S. Patent No. 7,068,381, and the total disregard that the Office Action has shown with respect to ensuring that Tuli '244 is indeed supported by U.S. Patent No. 7,068,381 for the features Tuli '244 is cited as disclosing, Applicants respectfully submit that it would likely save time and complication if U.S. Patent No. 7,068,381 replaced Tuli '244 as the cited reference, since only U.S. Patent No. 7,068,381 and the subject matter supported thereby from Tuli '244 is actually prior art relative to the claimed invention.

As another specific example related to the independent claims, Applicants respectfully note that the citations provided from Tuli '244 as corresponding to the claimed feature assembling subdocuments from segments conforming to an algorithm that tends to **balance the respective sizes of the subdocuments**, which is either recited explicitly or set forth generally in each of the independent claims of the present application in relation to providing subdocuments of equal size or length, are not supported in U.S. Patent No. 7,068,381. Specifically, the final Office Action alleges that the portions of Tuli '244 that are cited in connection with this feature (col. 1, lines 46-50, col. 3, lines 5-20 and col. 4, lines 37-43) are supported by col. 1, lines 29-35 and col. 2, lines 12-33 of U.S. Patent No. 7,068,381. The Office Action states that the cited passages of Tuli '244 describe how an "image or webpage is reduced to equal the size or proportion to the size of the receiving portable device" (see page 13 of the final Office Action). However, even if one assumes this characterization of the disclosure of Tuli '244 is correct, there is no disclosure in col. 1, lines 29-35, col. 2, lines 12-33, or any other portion of U.S. Patent No. 7,068,381 that supports the concept of _**reducing**_ the size of image portions. In fact, quite to the contrary, U.S. Patent No. 7,068,381 describes how portions of the image are later displayed and traversed using scroll bars (see col. 2, lines 42-55).

Accordingly, since Tuli '244 is not supported by U.S. Patent No. 7,068,381 with respect to subject matter cited from Tuli '244 in connection with rejecting many claims including the independent claims, the rejections of the final Office Action should be reversed.

II. The claims are not anticipated or obvious in view of the cited references in any case.

Even if the cited portions of Tuli '244 were supported by the disclosure of U.S. Patent No. 7,068,381, the cited portions of Tuli '244 (and indeed all of Tuli '244) still fails to teach or suggest assembling subdocuments from segments conforming to an algorithm that tends to

balance the respective sizes of the subdocuments as generally set forth in the independent claims of the present application.

Tuli '244 describes the reduction of color depth of an entire image (text and graphics) by reducing 24 bit color to a black and white bit map. However, there is nothing to suggest, as the final Office Action asserts, that this reduction in size is made "to equal the size or proportion to the size of the receiving portable device". The image reduction is accomplished prior to compression and transmission. The compressed and reduced image is then decompressed at the mobile device. In a separate embodiment, a portion of the image (not previously reduced as described in the passage of col. 3, lines 5-20) that is equal or proportional to the size of the browser window of the device is sent from the host computer. This portion is also depth reduced and compressed prior to transmission. Thus, again, the reduction has nothing to do with making the portion fit the size of the browser window as the portion was previously selected to fit the size of the browser window. Thus, any size reduction described in Tuli '244 is not aimed at reducing the image to a size that fits the size of the display of the device since, as described in U.S. Patent No. 7,068,381, since the user ends up scrolling over the entire image in order to see other parts of the image (see col. 4, lines 51-58). Furthermore, the claimed invention is not merely directed to fitting portions of an image to the size of the display in any case. Rather, the claimed invention is directed to balancing the respective sizes of the subdocuments that are assembled from segments. The balanced sizes need not necessarily equal the size of the display screen. Moreover, if the portion of the webpage in Tuli '244 is read to correspond to the claimed subdocument, which is assembled to have balanced size with other subdocuments, there would be nothing from Tuli '244 to correspond to the segments that are assembled to form the subdocuments. Alternatively, if the whole image of Tuli '244 is considered to correspond to the claimed subdocument so that the portion of the whole image of Tuli '244 is read to correspond to the claimed segments, then it is clear that the whole image of Tuli '244 is not assembled in a manner that balances respective sizes of subdocuments as provided in the claimed invention.

Accordingly, Tuli '244 fails to teach or suggest assembling subdocuments from segments conforming to an algorithm that tends to **balance the respective sizes of the subdocuments** as generally set forth in the independent claims of the present application

For at least those reasons given above, Applicants respectfully submit that independent claims 13, 14, 17, 21, 26, 37-39 and 50 are patentable over Tuli '244.

Meanwhile, Borger is merely relied upon for the proposition that XML is well known. Borger fails to cure the above noted deficiencies of Tuli '244 and is not cited as such. Thus, any combination of Borger and Tuli '244 also fails to render the independent claims of the present application obvious. Claims 2, 5-12, 16, 18, 20, 22-25, 27-36, 40-49 and 51-53 depend either directly or indirectly from corresponding ones of independent claims 1, 13, 14, 17, 21, 26, 37-39 and 50 and thus include all the recitations of their corresponding independent claims. Therefore, dependent claims 2, 5-12, 16, 18, 20, 22-25, 27-36, 40-49 and 51-53 are patentable for at least the same reasons given above for independent claims 1, 13, 14, 17, 21, 26, 37-39 and 50.

Accordingly, Applicants respectfully submit that the rejections of claims 1, 2, 5-14, 16-18 and 20-53 should be reversed.